

(e) *Exceptions to the notice requirement.* The notice requirements of paragraphs (c) and (d) of this section shall not apply if:

(1) The Board determines that the information shall not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600;

(4) The designation made by the submitter under paragraph (a) of this section appears obviously frivolous, except that, in such a case, the Board shall, within a reasonable time prior to the date the disclosure will be made, give the submitter written notice of the final decision to disclose the information.

(f) *Notice to requesters.* Whenever we provide a submitter with the notice described in paragraph (b) of this section, we also will provide notice to the requester that notice and opportunity to object to the disclosure are being provided to the submitter.

#### § 1001.10 Fees.

(a) We will charge fees that recoup the full allowable direct costs we incur in processing your FOIA request. Fees may be charged for search, review or duplication. As a matter of administrative discretion, the Board may release records without charge or at a reduced rate whenever the Board determines that the interest of the United States government would be served. We will use the most efficient and least costly methods to comply with your request.

(b) With regard to manual searches for records, we will charge the salary rate(s) (calculated as the basic rate of pay plus 16 percent of that basic rate to cover benefits) of the employee(s) performing the search.

(c) In calculating charges for computer searches for records, we will charge at the actual direct cost of providing the service, including the cost of operating the central processing unit directly attributable to searching for records potentially responsive to your FOIA request and the portion of the

salary of the operators/programmers performing the search.

(d) We may only charge requesters seeking documents for commercial use for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges may be assessed only for the initial review—that is the review undertaken the first time we analyze the applicability of a specific exemption to a particular record or portion of a record. Records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. We may assess the costs for such subsequent review.

(e) Records will be duplicated at a rate of \$.10 per page, except that the Board may adjust this rate from time to time by rule published in the FEDERAL REGISTER. For copies prepared by computer, such as tapes, CDs, DVDs, or printouts, we will charge the actual cost, including operator time, of production. For other methods of reproduction or duplication, we will charge the actual direct costs of producing the document(s). If we estimate that duplication charges are likely to exceed \$25, we will notify you of the estimated amount of fees, unless you indicated in advance your willingness to pay fees as high as those anticipated. Our notice will offer you an opportunity to confer with Board personnel to reformulate the request to meet your needs at a lower cost.

(f) We will charge you the full costs of providing you with the following services:

(1) Certifying that records are true copies; or

(2) Sending records by special methods such as express mail.

(g) We may assess interest charges on an unpaid bill starting on the 31st calendar day following the day on which the billing was sent. Interest shall be at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of the billing.

(h) We will not charge a search fee for requests by educational institutions, non-commercial scientific institutions, or representatives of the news

media. A search fee will be charged for a commercial use requests.

(i) Except for a commercial use request, we will not charge you for the first 100 pages of duplication and the first two hours of search.

(j) You may not file multiple requests, each seeking portions of a document or documents, solely for the purpose of avoiding payment of fees. When the Board reasonably believes that a requester, or a group of requesters acting in concert, has submitted requests that constitute a single request involving clearly related matters, we may aggregate those requests and charge accordingly.

(k) We may not require you to make payment before we begin work to satisfy the request or to continue work on a request, unless:

(1) We estimate or determine that the allowable charges that you may be required to pay are likely to exceed \$250; or

(2) You have previously failed to pay a fee charged within 30 days of the date of billing.

(l) Upon written request, we may waive or reduce fees that are otherwise chargeable under this part. If you request a waiver or reduction in fees, you must demonstrate that a waiver or reduction in fees is in the public interest because disclosure of the requested records is likely to contribute significantly to the public understanding of the operations or activities of the government and is not primarily in your commercial interest. After processing, actual fees must be equal to or exceed \$25, for the Board to require payment of fees.

## PART 1002—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

### Sec.

- 1002.1 Purpose and scope.
- 1002.2 Definitions.
- 1002.3 Privacy Act requests.
- 1002.4 Responses to Privacy Act requests.
- 1002.5 Administrative appeals.
- 1002.6 Fees.
- 1002.7 Penalties.

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### § 1002.1 Purpose and scope.

The regulations in this part implement the provisions of the Privacy Act.

### § 1002.2 Definitions.

The following terms used in this part are defined in the Privacy Act: *Individual*, *maintain*, *record*, *system of records*, *statistical record*, and *routine use*. The following definitions also apply in this part:

*Board* means the Privacy and Civil Liberties Oversight Board, established by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110–53.

*Chairman* means the Chairman of the Board, as appointed by the President and confirmed by the Senate under section 801(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110–53, or any person to whom the Board has delegated authority in the matter concerned.

*General Counsel* means the Board's principal legal advisor, or his or her designee.

*Privacy Act* means the Privacy Act of 1974, 5 U.S.C. 552a, as amended.

*Privacy Act Officer* means the person designated by the Board to be responsible for the day-to-day administration of the Privacy Act.

### § 1002.3 Privacy Act requests.

(a) *Requests to determine if you are the subject of a record.* You may request that the Board inform you if we maintain a system of records that contains records about you. Your request must follow the procedures described in paragraph (b) of this section.

(b) *Requests for access.* You may request access to a Board record about you in writing or by appearing in person. You should direct your request to the Privacy Act Officer. Written requests may be sent to: Privacy Act Officer, Privacy and Civil Liberties Oversight Board, 2100 K Street NW., Suite 500, Washington, DC 20427. Your request should include the following information:

(1) Your name, address, and telephone number;

(2) The system(s) of records in which the requested information is contained; and